

EMMETT W. CALDWELL,)
)
Plaintiff,)
)
v.) 1:09CV208
)
CITY OF DURHAM, et al.,)
)
Defendant(s).)

to pierce the veil of the complaint's factual allegations and dismiss those claims whose factual contentions are clearly baseless.” *Id.* at 327. Additionally, under *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992), a court may dismiss as frivolous *in forma pauperis* complaints whose factual allegations are fanciful, fantastic, delusional, irrational, or wholly incredible, but not those which are simply unlikely.

The Court first notes that Plaintiff, although he proceeds *pro se*, is hardly an inexperienced litigator; he has filed a multitude of civil actions in the state and federal courts. In fact, Plaintiff has filed at least 128 cases since 1988 – more than 25 in this court alone. *See Caldwell v. Triangle Transit Authority*, No. 1:08CV10 (M.D.N.C. Recommendation of Magistrate Judge, August 22, 2008).

The complaint includes allegations that “Durham City politics and government is saturated with alleged racist [sic] & satanic [sic] cult and mafia/drug gangsters as members (as Durham democratic boss ect [sic] charged with satanic slavery & homosexual rape) who target Plaintiff’s family.” (Docket No. 1, Complaint at 1.) The complaint goes on to complain of a building condemnation process “based upon invalid and false pretenses and untrue allegations.” (*Id.*) Plaintiff purports to challenge the Durham housing code. He alleges negligence on the part of the Defendants. He states that “Plaintiff secures both doors with nails each evening Crabtree fraudulently claims structure was unlocked accessible to the public.” (*Id.* at 5.) It appears that Plaintiff does not own 110 Plantation Drive, the property in question, a property that is “pending tax foreclosure.” (*Id.* at 1.) Plaintiff alleges

intentional infliction of emotional distress (without identifying a diagnosed medical condition), and an unconstitutional statute.

Plaintiff Caldwell, who has filed over 120 *pro se* lawsuits against various defendants over recent years, has utterly failed to provide a “short and plain statement” of a claim as is required by Fed. R. Civ. P. 8(a)(2). He has sued Defendants that include entities that are not subject to suit or are clearly immune from the damages relief he claims. His allegations include clearly fanciful and delusional assertions.

For these reasons, **IT IS RECOMMENDED** that Plaintiff’s Complaint be dismissed as frivolous and for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B).

/s/ P. Trevor Sharp
United States Magistrate Judge

Date: March 30, 2009